

IN THE SENATE

SENATE BILL NO. 1401, As Amended

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO CONSTRUCTION OF PUBLIC PROJECTS; AMENDING SECTION 67-5711C, IDAHO CODE, TO REVISE PREQUALIFICATION REQUIREMENTS WHEN THE DEPARTMENT OF ADMINISTRATION AND THE RESPECTIVE STATE AGENCY DEEM IT IN THE BEST INTEREST OF THE STATE AND TO REVISE PREQUALIFICATION PROVISIONS; AND DECLARING AN EMERGENCY.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 67-5711C, Idaho Code, be, and the same is hereby amended to read as follows:

67-5711C. CONSTRUCTION OF PUBLIC PROJECTS -- COMPETITIVE SEALED BIDDING. (1) All construction contracts for public works shall be awarded to the lowest responsible and responsive bidder after receipt of competitive sealed bidding except as otherwise provided in sections 67-5711B, 67-5711D and 67-5713, Idaho Code.

(2) An invitation for bids shall be issued and shall include a project description and all contractual terms and conditions applicable to the public works.

(3) Adequate public notice of the invitation for bids shall be given at least fourteen (14) days prior to the date set forth therein for the opening of bids. Such notice shall include publication at least fourteen (14) days prior to bid opening in a newspaper of general circulation in the area where the work is located.

(4) When prequalification is deemed by the department and by the respective state agency to be in the best interest of the state, competitive bidding procedures shall be open only to licensed public works contractors that meet preliminary supplemental qualifications. The solicitation for bids in a prequalified bidder public works project shall consist of two (2) stages, an initial stage for identifying prequalified contractors, either prime or specialty contractors, followed by a stage during which bid prices will be accepted only from prequalified contractors. Notice of the prequalification stage shall be given in the same manner that notice of open competitive bidding is provided. Prequalification standards must be premised upon demonstrated technical competence, experience constructing similar facilities, prior experience with the state, past performance (related to quality, workmanship and timeliness), reliability, safety record, available nonfinancial resources, equipment and personnel as they relate to the subject project, and overall performance history based upon a contractor's entire body of work. Any request for qualifications must include the standards for evaluating the qualifications of prospective bidders. Licensed contractors desiring to be prequalified to bid on a project must submit a written response to a request for qualifications. After a review of qualification submittals, licensed contractors that meet the prequalifica-

tion standards shall be so notified and licensed contractors that do not meet the prequalification standards shall also be so notified. Thereafter, bids may be solicited from contractors that meet the prequalification standards. The department may promulgate rules or develop procedures to implement the prequalification process.

(5) Bids shall be opened publicly at the time and place designated in the invitation for bids. The amount of each bid and such other relevant information as may be specified by rules, together with the name of each bidder, shall be entered on a record and the record shall be open to public inspection. After the time of the award all bids and bid documents shall be open to public inspection in accordance with the provisions of sections 9-337 through 9-347 and 67-5725, Idaho Code.

(6) With respect to a project having a written cost estimate of greater than twenty-five thousand dollars (\$25,000) but less than the public works limit established in section 67-5711, Idaho Code, the agency, if it does not perform the work with existing physical plant staff, must award a written contract to the lowest responsible and responsive bidder after soliciting at least three (3) documented informal bids from contractors licensed in Idaho to perform public works contracts, if reasonably available. Adequate public notice of the invitation for informal bids shall be given at least seven (7) days prior to the date set forth therein for the receipt of the informal bids. Such notice may include publication at least seven (7) days prior to bid opening in a newspaper of general circulation in the area where the work is located; or the agency may advertise the invitation for bids in appropriate trade journals, and otherwise notify persons believed to be interested in the award of a contract. Informal bids must be submitted by the contractor in writing in response to a prepared written document describing the project's scope of work in sufficient detail so as to enable a contractor familiar with such work to prepare a responsible bid. Nothing herein exempts an agency from the responsibility of utilizing formal plans and specifications if the work involves the public health or safety as described in chapters 3 and 12, title 54, Idaho Code. The agency must document receipt of the informal bids in the project file.

(7) Any personal property including goods, parts, supplies and equipment which is to be supplied or provided by a state agency for use in any public work, project, or preventive maintenance programs, whether the public work, project, or preventive maintenance program is constructed, undertaken or performed by agency in-house personnel, or by delegation pursuant to section 67-5710A, Idaho Code, or otherwise provided or supplied by the agency to a contractor, the personal property, goods, parts, supplies or equipment supplied or provided by the agency must be purchased or procured by the agency through the division of purchasing in accordance with the Idaho Code.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.